IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTYSIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 25780 of 2002

Between:

D.Lakshmana Rao, s/o late Guruvulu,

Aged about 40 years, Dealer of FP Shop

No.64, Gajuwaka, Visakahapatnam.

..... PETITIONER

AND

1. The District Collector,

Visakhapatnam, Visakhapatnam District.

2. The joint Collector,

Visakhapatnam, Visakhapatnam District.

3. The Revenue Divisional officer,

Visakhapatnam, Visakhapatnam District.

4. The District Supply Officer (City)

F.A.C. Visakhapatnam, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring the orders passed by the 4th and 3rd respondents in proceeding Rc.Nos. 1793/98/H1, dated 18.9.98 and AC No.29/98/CSR-7, dated 25.3.2000 respectively

as confirmed by the 1st respondent in RP No. 4/2000/CSR-7, dated 21.7.2002 as arbitrary, illegal and unconstitutional and consequently direct the respondents to continue the petitioner as FP Shop Dealer of shop No.64, Gajuwaka Mandal, Visakhapatnam District.

For the Petitioner: Mr. T.Nagarjuna Reddy, Advocate

For the Respondents : Government Pleader for Civil supplies

The Court Made the Following :

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::ORAL ORDER::

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Aggrieved by the order of the 4th respondent dated 18.9.1998 cancelling his dealership; by the order of the 3rd respondent dated 25.3.2000 rejecting his appeal and the order of the 1st respondent dated 21.7.2002 rejecting his revision, the petitioner is before this court.

The petitioner was a FP Shop Dealer in respect of Shop No.64, Gajuwaka, Visakhapatnam District. On 16.4.1998 the Inspector of Police, Vigilance Cell of the Civil Supplies Department inspected the petitioner's business premises, verified the stocks and found shortage of 100 Kgs of wheat, 23 Ltrs, of Kerosene and 8.5 Kgs of Rs.7.50 per Kg, variety rice, as against the book balances and booked a case and seized the available ground stock. It was also found that one Chakradhararao was conducting the business instead of the petitioner. The 4th respondent issued a show cause notice dated 26.4.98 framing two charges against the petitioner in respect of the shortages and alleging violation of the specified clauses of the A.P Scheduled Commodities (R.D.C.S.) Order 1973 as well as the specified conditions of the authorisation issued to the petitioner. The petitioner was called for his explanation on 30.4.2000 at 4 pm before the 4th respondent. According to the petitioner he attended the office of the 4th respondent, waited upto 7.30 pm and as the 4th respondent did not attend the office up to 7.30 pm, he presented his explanation to

the Superintendent of the 4th respondent's office. According to the respondents however as per the averments in the counter affidavit filed by the 4th respondent, the petitioner neither turned up at the office of the 4th respondent on the specified date nor did he furnish his explanation/representation to the Superintendent of the said respondent's office. The petitioner did not also either plead or place before this court any document evidencing acknowledgement or receipt of his explanation/representation in the 4th respondent's office.

By the order of the 4th respondent 18.9.98 the authorisation of the petitioner was cancelled on the ground that he was involved in gross violations of the conditions incorporated in his authorisation to run the FP Shop. As against the 4th respondent's order the petitioner preferred an appeal to the 2nd respondent. By the order dated 25.3.2000 the 2nd respondent dismissed the appeal. A further proceedings – revision filed by the petitioner to the 1st respondent was also rejected by the order dated 21.7.2002.

The 2nd respondent appellate authority has in fact elaborately considered the contentions urged by the petitioner through his counsel including the plea that the shortages in wheat occurred due to insect damage and has recorded reasons in dismissing the appeal, that under the terms of the authorisation the petitioner was required to take adequate measures to ensure that the scheduled commodities are maintained in good condition and damage to these on account of ground moisture, rains, insects, etc., is avoided.

As there is negligence and violation of the conditions of the APSC (RDCS) Order 1973 and of the conditions of the authorisation by the petitioner, established by the concurring conclusions of the primary, appellate and revisional authorities, in the considered view of this court there are no merits in the writ petition to grant the relief sought. The writ petition is accordingly dismissed. No costs.

Date: 26.11.2004 ----------

Pvsn Justice G.Raghuram

To

1. The District Collector,

Visakhapatnam, Visakhapatnam District.

2. The joint Collector,

Visakhapatnam, Visakhapatnam District.

3. The Revenue Divisional officer,

Visakhapatnam, Visakhapatnam District.

4. The District Supply Officer (City)

F.A.C. Visakhapatnam, Visakhapatnam District.

5. Two Copies to Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

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